# **Andover Conservation Commission Meeting Minutes**

April 17, 2012

Town of Andover 36 Bartlett Street 3<sup>rd</sup> Floor Conference Room A 7:45 p.m.

#### **Conservation Commission Members in Attendance:**

Commissioner Driscoll, Commissioner Fink, Commissioner Greenwood, Acting Chairman Honea, Commissioner Porter, Director Robert Douglas and Agent Cleary were also present.

## **SCHEDULED ITEMS:**

# Dismantling Dams in New England by NOAA

A video shown on Relics and Rivers: Dismantling Dam in New England is a story about community inspired efforts to remove outdated dams and stream blockages to help restore New England's rivers and their fisheries. The NOAA Restoration Center is the focal point for marine and estuarine habitat restoration within NOAA. The Restoration Center performs restoration pursuant to federal legislation and improves the state of restoration ecology and habitat management. www.nmfs.noaa.gov/habitat/restoration/ori.

## 193 Salem Street

Present in Interest:

Staff Recommendation: Approvable as a Pos. 2b (not confirming wetland boundaries of resource areas); Neg. 3 with conditions); and Neg. 6 (not subject to By-Law).

Public Meeting on the Request for Determination of Applicability filed by **Marcel Dumitrescu** to determine if the proposed demo of existing garage foundation and construction of a new garage due to fire damage at **193 Salem Street** is subject to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40. **DA2012-007** 

Director Douglas presented to the Commission. The project is a filing is complete under the Wetland Protection Act only and ready for a decision this evening.

The family had a fire at their house that claimed part of their garage. The new garage that the homeowner is proposing is to square off the house. Commissioner Fink stated the plan does not show what the scope of the project is? Is the deck being removed and what about the retaining wall? The homeowner said that his focus was on the garage and a later date he may address the deck and retaining wall on another project. Commissioner Fink stated the plan does not show the exact dimension of the garage and that the homeowner is building the garage only. Director Douglas clarified that the garage will be straight out the reference point. Commissioner Greenwood would like to see measurements that are exact. Commissioner Honea will need to see the dimension on existing house. Director Douglas clarified that the garage will straighten

out the line of the house. As a condition in the order need to have exact measurement of foundation on existing house and no deck to be built without applying for a new Determination.

Commissioner Driscoll made a Motion to approve the Determination with Conditions to have exact dimension of foundation for existing house and no deck to be built without applying for a new Determination; seconded by Commissioner Greenwood, Commissioner Porter abstained. Four approved, one obstained.

#### 2 Pond View Place

Present in Interest: Irene Jacobs – homeowner

Staff Recommendation: Approvable as a Pos. 2b (not confirming boundaries of resource areas); Neg. 3 with conditions); and Neg. 6 (not subject to the By-Law).

Public Meeting on the Request for Determination of Applicability filed by **Irene & Norma Jacobs** to determine if the proposed construction of 225 s.f. building addition at **2 Pond View Place** is subject to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40. and/or the Andover Wetlands Protection By-law, Article XIV. **DA2012-008** 

Director Douglas presented to the Commission that the project is complete under the Wetland Protection Act and ready for a decision this evening. A waiver is requested under the General By-Law – project does not meet 75-foot setback, and is 67 feet from Bordering Vegetated Wetlands. No ruling is being made on the wetland boundaries. The Jacobs are proposing to build a 225 square foot building addition. Commissioner Fink asked if they would be gaining access from the back of property. The addition the homeowner is proposing is located in the back of the house. The home owner would have a clear path and there would be no effect to the trees. Director Douglas asked for the sedimentation controls to be moved closer to the pond. The home owner would be spending significant dollars to have ongoing maintenance.

Commissioner Driscoll made a motion to approve with Conditions: 1) Waiver does not meet 75 foot setback requirements. 2) Sedimentation Controls be moved closer to Pond. 3) Enter from the North side with equipment; seconded by Commissioner Greenwood and unanimously approved.

#### 43 Farrwood Drive

Present in Interest: Chris Legare

Staff Recommendation: Approvable as a Pos. 2b(not confirming boundaries of resource areas); Neg. 3 with conditions (Note Condition #3- Overcoming Presumption of 310 CMR 15.000 – Title 5) and Neg. 6 (not subject to the By-Law).

Public Meeting on the Request for Determination of Applicability filed by **Chris Legare** to determine if the accuracy of the boundary of resource areas and if the proposed construction of a replacement septic system and associated site work at **43 Farrwood Drive** is

subject to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40. and/or the Andover Wetlands Protection By-law, Article XIV. **DA2012-009** 

Agent Cleary presented to the Commission. Project filing is complete under the WPA *only* and ready for a decision this evening. No ruling is being made on the wetland boundary; however even with the changes staff would recommend, the septic system still remains greater than 50 ft. from the resource area. Application requires a variance from the BOH for 5 ft. to 4 ft. separation to estimated seasonal high water table. This is due to the perk rate and recommended by the BOH to avoid grading issues. The geo-membrane is a safeguard protecting breakout and the system will have a monolithic tank. Commissioner Fink asked what the access route would be for the machinery and what is going on with the pool? Representative Chris Legare stated that the applicant will now be filing in the pool and fence removal. A few trees have been taken down close to the house and the system. The marked trees with caution tape are ripping up the concrete slap.

Commissioner Greenwood made a motion to Continue to a Date of Uncertain; 1) New revised plan required 2) Trees to be removed on plan 3) pool 4) fence removal; seconded by Commissioner Driscoll and unanimously approved.

## **276 North Main Street**

Present in Interest: Bill Langlois

Staff Recommendation: Approvable as a Pos. 2bn (not confirming boundary of resource areas); Pos. 5 (subject to By-Law) and Neg. 3 (subject to conditions – Note Conditions #2, #4 & 5).

Public Meeting on the Request for Determination of Applicability filed by **Sasha Associates Trust** to determine if the proposed construction of a replacement septic system and a garage within 100 ft. of a resource area at **276 North Main Street** is subject to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40. **DA2012-010** 

Agent Cleary presented to the Commission. Project filing is complete under the WPA and Local By-Law (proposed detached garage over 500 sq. ft. triggers By-Law) and is ready for a decision this evening on the "Woods Estate". No ruling is being made on the wetland boundary; however even with minor changes staff would recommend, the septic system and garage still remain greater than 50 ft. from the resource area. Waivers are requested and required for (1) omission of North Arrow on plan; (2) tree line and trees over 10 inches in caliper; and (3) property dimensions. Application requires a variance from the BOH for 5 ft. to 4 ft. separation to estimated seasonal high water table. The BOH is recommending this drop due to perk rate and to avoid grading issues, pump and excess of fill. Driveway over the system is permitted due to schedule 40 proposed pipe and distribution to grade will be accomplished with a manhole cover.

Commissioner Porter made a motion to approve as a Pos. 2b (not confirming boundaries of resource areas), Pos. 5 (subject to By-Law) and Neg. 3 (subject to conditions) #2, #4 & 5; seconded by Commissioner Driscoll.

## 360 South Main Street

Present in Interest: Roberta Ede-Faith Lutheran Church, Bernie Paquin - Dana Perkins and Kathy Faulk

Staff Recommendation: Close Public Hearing. Issue OOC on May 3<sup>rd</sup> 2012, conditioning dewatering and cleaning of trucks with Commission appointed site monitor and restoration of the BVW with installation of bounds to be accomplished prior to construction.

Continued Public Hearing on an Abbreviated Notice of Intent filed by **Faith Lutheran Church of Andover**, **Inc.** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40, for the proposed construction of a building addition (1,482 SF +/-) and covered walkway (426 SF +/-) adjacent to the existing Church Building at **360 South Main Street. DEP File #090-1151** 

Agent Cleary presented to the Commission. Continued from meeting of March 20, 2012, for staff to review additional submittals to the application, for wetland flags to be reset, for Applicant to consider no disturbance (including mowing of lawn) behind the non-disturb markers and consideration of any additional treatment for stormwater that might be feasible. Additional information under our policy have been received making it a complete application under the WPA *only* (meets all plan and submittal requirements). DEP has no comments. Wetland Flags have been reset. Revised plans have been received documenting no disturbance or mowing of lawn per Commission's request beyond NDZ areas. applicant has looked to additional treatment for stormwater other than roof drains and will speak to that issue. Upgrades to the commuter parking lot is the responsibility of the Town and Mass DOT to come up to stormwater management standards (church simply is allowing use of the parking lot for commuter purposes). Commission needs to vote on waiver request of the proposed placement of the addition within the 50 foot no-build. Bernie from Dana Perkins stated that the wetland area will be planted with markers are being shown. The lawn will return to its natural vegetation.

Commissioner Greenwood approved to close the Public Hearing to Issue Order of Conditions 1) consult on dewatering techniques 2) cleaning of truck; it was seconded by Commissioner Driscoll.

# 3 Stone Post Road

Present in Interest: Greg Hochmuth

Staff Recommendation: Project is approvable with proposed mitigation.

Public Hearing on a Notice of Intent filed by **Nick & Laurie Liatsos** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection Bylaw, Article XIV to construct an in ground swimming pool, pool house, patios, retaining walls, and landscape improvements at **3 Stone Post Road**. **DEP File #090-1155** 

Director Douglas presented to the Commission. The project is a rather large backyard project. DEP has offered no comments. The dimensions are not shown on pool-house or pool. The resource area is a sloping wetland. The project complies with our set-backs. Due to the size of the project we should have a site walk. Greg Hochmuth talked about the slope of the wetlands and soil transitions. The project will included adding a step and sunk down patio to maintain the existing grade. The work up to 25 feet will be no disturbance. The pool house dimension is 24 x 24. The screen porch is 8 x 24. The pool will be using a no back wash cartridge system. Commissioner Honea would like to see a site visit to address issues and concerns. Commissioner Greenwood expressed that there were no discharge and back washing in the Bylaw and size of the project. Director questioned the no cut status. Greg will talk to his client. The plan needs to address more details on mitigation and native plantings are not spelled out. A site visit will be conducted by Director Douglas and Commissioner Honea on 2:00 p.m., Thursday, April 19<sup>th</sup>. An additional site visit for other Commissioners has been scheduled on Thursday, at 7:30 a.m. on April 26. Abutters David and Katherine Williams will be able to view the surrounding properties will cause additional noise and loose privacy. Additional concerns are with wild life preservation and fence with cement barrier. The project will be out of portion for the area and this is a huge project.

Commissioner Porter made a motion to Continue to a Date of Uncertain; 1) New revised plan required 2) Trees to be removed on plan 3) pool 4) fence removal; seconded by Commissioner Driscoll and unanimously approved.

#### 3 Barbara Lane

Present in Interest: Ben Osgood

Staff Recommendation: Commission requires easement language from applicant who does not own the easement. Revised plans will be required for revision to the wetland line and other concerns the Commission may have. Continue to date uncertain May 15, 2012.

Public Hearing on a Notice of Intent filed by **Robert Fitzpatrick** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 for installation of a pipe in an existing drainage easement with associated grading and riprap at **3 Barbara Lane**. **DEP File #090-1157** 

Applicant was before the Commission for the proposed work in November of 2011. The Commission asked for additional information on drainage easement and more information relative to sizing of pipe, watershed, etc. with concerns about easement agreement between applicant and owner of easement. The Commission permitted the applicant to withdraw the application without prejudice. In February of 2012, the Applicant was before the Commission with the same application as an RDA and showed easement language drawn up between the applicant and the owner of the easement. No further information was given on sizing of pipe, watershed, resource areas, etc. and the Commission voted to issue a positive determination requiring the filing of an NOI (now before you) due to insufficient information being submitted disabling the Commission to make a decision. Project Filing is under the WPA only and is under review by DEP. Applicant will require waivers for working in the 25 ft. non-disturb area where easement is located and for requesting non-disturb bounds at 15 ft. from the resource area

(Commission has granted this before for existing homes built prior to 1999.) Staff review: The drainage easement has limited wetland plant community (a few sedges and sphagnum moss). The true wetland has been flagged. Staff recommends moving Flag A2 up gradient 5 feet. Ben Osgood Representative that the easement to drain the water across the road. A letter was drafted to the Commission for the 25 foot no disturb zone. The main purpose of the foundation drain is to keep the basement dry. Commissioner Fink stated that the watershed is a GIS map. Are the calculations accurate? Representative Ben said the calculations are very accurate. A scheduled site visit is for April 19<sup>th</sup> at 3:00 pm by Director Douglas and Commissioner Honea. A second site visit will be conducted on April 26<sup>th</sup> at 8:30 pm by Commissioner Driscoll, Commissioner Porter and Commissioner Fink. Commissioner Porter asked what will prohibit the increase flow into this? Commissioner Fink would like to receive copies of the easement document for the next meeting. The meeting will be continued to May 3<sup>rd</sup> to allow for site visits.

Commissioner Greenwood made a motion to Continue to May 3<sup>rd</sup> for the purpose of a site visit on April 26<sup>th</sup> and to address additional flow of water from a butter; seconded by Commissioner Driscoll and unanimously approved.

#### 6 Tech Drive

Present in Interest: John Crowe – Crowe Associates

Staff Recommendation: Presently under review. No red flags. Continue to next meeting May 3, 2012 to close or issue.

Public Hearing on a Notice of Intent filed by Sara Osborne under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV for removal of an existing concrete chiller pad with underground piping, dumpster pad and concrete wall enclosure and proposed construction of a new concrete pad for a prefab building structure, a new concrete sidewalk and two water quality swales at 6 Tech Drive. DEP File #090-1156

Director Douglas presented the Commission that the site is presently under review. Director Douglas talked about the removal of the industrial pads along with the man made ditch. Representative John Crowe (Crowe Associates) talked about the removal of the structure along with the pre-fabricated building. The roof run off of the water will be infiltrated. The project is fairly simple. The impervious area will increase by about 350. Commissioner Driscoll asked about moving the concrete pad out of the 25 foot buffer zone. John stated that the dumpster was going to be placed onto this concrete pad. Commissioner Fink questioned about more pavement and the storage containers on the property. Commission requested for a new plan from Representative John Crowe in 1 week. The plan is due on Thursday, April 19<sup>th</sup>. Any comments from DEP will be added to the order.

Commissioner Porter made a motion to Continue to May 15, 2012; 1) for a new revised plan to move concrete pad out of 25 foot buffer zone; seconded by Commissioner Driscoll and unanimously approved.

# **ACTION ITEMS:**

# 6 Newport Circle, Lot 2

Request for a one year Extension to the Order of Conditions for 6 Newport Circle Lot 2. DEP File #090-1038

Commissioner Fink made a motion to Table the Request for one year Extension to the Order of Conditions; 1) There are at least 6 months left prior to the expiration of the Order of Conditions and 2) The Commission was not prepared to approve an extension to Order of Conditions until Commission is in receipt of the revised reforestation plan; seconded by Commissioner Driscoll and unanimously approved.

## 7 Manning Way

Present in Interest: Meerie Joung and Ki Joung

Consideration of significance requested by Meerie Joung and Angel J. Torio to remove +/- 18 trees within the buffer zone and 25 ft. non disturb zone at 7 Manning Way. DEP File #090-969 The Commission found the proposed plan changes described in applicant letter with associated plans and documents, dated April 2, 2102, to be significant to the interests of the Wetland Protection Act and the Andover Wetlands Protection By-Law. The request has been denied to remove any trees on site at this time. In order to pursue removal of the selected tagged trees on site, the Commission requires a written recommendation from a qualified expert describing which trees are unhealthy and require removal, what the fall radius of each tree selected for removal is and what could be provided in terms of mitigation for removal of the trees which meet the above qualifications by your expert.

Commissioner Porter made a motion to Deny the Request for any removal trees within the buffer zone and 25 ft. non disturb zone; 1) obtain a qualified tree expert to provide analysis of trees to be removed including healthy and unhealthy trees noting there problems 2) Expert to provide fall radius 3) Provide mitigation (could be planting new trees etc.); it was seconded by Commissioner Fink and unanimously approved.

## 6 Nob Hill Circle

Present in Interest: Emma and John Geunaro, Bruce Comak – Comak Bros.

Consideration of significance by Bruce Comak, Comak Bros. Inc. to install a pervious paver patio with a natural stone seat wall at 6 Nob Hill Circle. DA2011-017

Commissioner Porter made a Motion to find the proposed work Significant and not meeting the setback requirements in the WPOD area; it was seconded by Commissioner Greenwood and unanimously approved.

#### **Pine Forest Park Subdivision**

Consideration of significance to accept revised plans approved by the Planning Board for subdivision approval for Pine Forest Park. DEP File #090-0786

The Commission found the proposed plan changes described in applicant letter with associated plans and documents, dated April 3, 2012, to be significant to the interests of the Wetland Protection Act and the Andover Wetlands Protection By-Law. The asked for property to be reflagging of the subdivision since it was done about 10 years ago. The Commission denies the request for an insignificant change.

Commissioner Porter made a motion to Deny Consideration of Significance; it was seconded by Commissioner Driscoll and unanimously approved

#### 100 & 110 Corbett Street

Discussion and vote on remediation action for wetland violations at 100 & 110 Corbett St. /United Lebanese Cemetery. Discussion of a site visit to be scheduled with Jeff Bridge, Steve Erikson and Commissioner Greenwood, Commissioner Honea and Director Douglas on April 30<sup>th</sup> at 12:00 pm. Logs have been removed already. Tree cutters should be asked to come before the board for discussion. Trees that are presently leaning are not be cut down. Applicant needs to come back with permit application and a site plan.

Commissioner Greenwood made a motion to vote on remediation action to 1) extension of Delineation 2) logs not to be removed 3) tree cutters to be asked to come before the Commission 4)applicant to come back with permit application with site plan 5) a site visit to be scheduled on April 30<sup>th</sup> at 12:00 pm.; it was seconded by Commissioner Porter and unanimously approved.

# **Beaver Trapping/Dam Breaching Protocol**

Vote to accept Beaver Trapping/Dam Breaching Protocol.

The applicant and/or homeowner will need to apply for Beaver Dam protocol at their own expense to remove the Dam.

Commissioner Greenwood made a motion to vote to accept Beaver Trapping/Dam Protocol; it was seconded by Commissioner Porter and approved with Commissioner Driscoll voted no.

## **CONSENT AGENDA:**

#### Minutes

The Commission reviewed draft minutes for the meeting of March 20, 2012.

Commissioner Driscoll made a Motion to approve the minutes of March 20, 2012; as drafted; it was seconded by Commissioner Porter and unanimously approved.

## **Eagle Scout Project**

Presentation by Eagle Scout Sloan Lynch to build two wood sheds at Serio's Grove Camping Area to store firewood and to clean up a section of bittersweet covering the area. The shed will allow the wood to dry out. The size of the shed is approximately 8 ft 1 x 3 ft w x 5 ft h. The roof will have an incline with shingles. Commissioner Driscoll asked how far away from the river? Bob Decelle responded about 300 ft away. Commissioner Greenwood suggested that the cutting of pressure treated lumber should be done over a tarp to contain the saw dust. Commissioner Fink asked where the fire wood would come from ? Bob Decelle responded that it will come from various trees that have fallen down on the properties. Camping is not permitted without obtaining a permit.

Commissioner Greenwood made a motion to approve the Eagle Scout Project; it was seconded by Commissioner Driscoll.

## **Boy Scout Troup 76**

Presentation by Eagle Scout Derek Witt of Boy Scout Troup 76 to construct tables and benches placed near a proposed canoe launch site on Fosters Pond Reservation Conservation Land off Willard Circle. Derek is a life scout and wants to construct two benches and tables with pressure treated lumber. The benches and tables will be placed approximately 1.5 ft underground cemented. Bob Decelle stated this would allow for them to be secured and cannot be removed.

Commissioner Driscoll made a motion to approve the Boy Scout Troup 76 Project: it was seconded by Commissioner Greenwood.

## **DISCUSSION ITEMS:**

#### **4 Starr Avenue West**

Ratify Emergency Certification for **4 Starr Avenue West** per order of the Board of Health for a failing septic tank.

Commissioner Driscoll made a motion approve to Ratify Emergency Certification; it was seconded by Commissioner Greenwood.

#### 92 Argilla Road

Consideration of Significance for proposed retaining wall, changes in grade, construction of a circular driveway with relocation of the walkway at **92 Argilla Rd. DEP 090-1097** 

Commissioner Driscoll made a motion to approve the Consideration of Significance; it was seconded by Commissioner Greenwood.

The next meeting will be held at 7:45 p.m. on May 3, 2012.

The meeting was adjourned at 12:43 p.m. by Motion of Commissioner Greenwood. It was seconded by Commissioner Driscoll and unanimously approved.

Respectfully submitted by: Wendy Adams Recording Secretary